



HOUSE OF REPRESENTATIVES

HB 2382

property; declaration amendment; procedure
Prime Sponsor: Representative Farnsworth E, LD 12

DPA Committee on Judiciary

DPA Caucus and COW

X As Transmitted to the Governor

OVERVIEW

HB 2382 creates a process for amending a community declaration.

PROVISIONS

1. Allows a community declaration to be amended by the association, or if there is no association or board, the property owners, by an affirmative vote or written consent of the number of eligible voters or owners required under the declaration.
 - a. An amendment may occur during the period of declarant control if written consent of the declarant is provided.
 - b. Requires the assent of any individuals or entities that are specified in the declaration.
2. Allows an amendment to apply to fewer than all of the lots or less than all of the property, if:
 - a. The amendment receives the affirmative vote or written consent of the number of voters required by the declaration, including individuals or entities specified in the declaration, and
 - b. The amendment receives the affirmative vote or written consent of all of the owners that the amendment applies to.
3. Requires the association or, if there is no board, an owner, to prepare, execute and record a written instrument outlining the amendment within 30 days of adoption.
4. Makes an amendment to the declaration effective immediately when the instrument is recorded in the county where the property is located, regardless of any other provision in the declaration requiring periodic renewal.
5. Applies this process to planned communities and *private covenants*.
6. Exempts condominiums and timeshares from the section relating to *private covenants*.
7. Makes technical and clarifying changes.

CURRENT LAW

A.R.S. Title 33, Chapter 4 outlines requirements for conveyances and deeds. Under A.R.S. § 33-440, a property owner may enter into a private covenant that is valid and enforceable as long as specific conditions are met. The statute defines a *private covenant* as any uniform or non-uniform covenant, restriction or condition regarding real property that is contained in any deed, contract, agreement or other recorded instrument affecting real property.

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A.R.S. Title 33, Chapter 16 governs planned communities. [A.R.S. § 33-1802](#) defines relevant terms, including an *association*, *planned community* and a *declaration*. *Declaration* is defined as any instruments, however denominated, that establish a planned community and any amendment to those instruments. A.R.S. 33-440 uses the same definition of a *declaration* as is provided in A.R.S. § 33-1802.